

Remarks/Arguments

Claims 9 through 14 have been added which are combinations of claims set forth in the original PCT application that were amended upon filing to remove multiple dependencies at the time of the National Phase entry of the present application. No new matter is being added. Claims 1-14 are pending in this application.

Claims 1-4 have been rejected under 35 U.S.C. 102(b) as being directly anticipated by US Patent 67,832 to Winslow. Claims 5-8 have been rejected under 35 U.S.C. 103(a) as being obvious over the teachings of Winslow when considered with the teachings of Canadian Patent 2,189, 828 to Hsing Chuan Liu, hereinafter, Liu.

In rejecting claims 1-4 over the teachings of Winslow, the Examiner has taken the position that the element "C" of Winslow is equivalent to a "handle", such of component 2 of Applicant's invention. The Examiner also states that it would be easier to manipulate the suction device of the invention by manipulation of the suction head itself.

The Examiner does recognize that the element "C" of Winslow is a mouthpiece but states that the mouthpiece may be manipulated just like the handle 2 of Applicant's claimed invention and Examiner further states that the mouthpiece includes a blowhole, which Applicant assumes is the hole in the tip of the nipple of Winslow by way of which suction is applied from the mouth of an individual using the appliance. In the use of the Winslow appliance, the mouthpiece "C" is first placed in the mouth and the eye cups are subsequently placed over the individual's eyes and retained in position on the eyes by the individual applying a suction on the mouthpiece, which suction is conducted along the two rubber tubes "b" to the suction cups "a". To maintain a reduced pressure within the tubes and the suction cups of the Winslow device, a person seals the opening in the mouthpiece with their tongue.

It is respectfully submitted that the mouthpiece with connecting rubber tubes of Winslow is not the same as the "handle" of the presently claimed invention nor do they function in the same manner. In the Winslow structure, suction on the eye cups is created by an individual sucking on the mouthpiece as the eye cups are positioned on the eyes. One cannot use the mouthpiece of Winslow to manipulate the eye cups as required in the present

application as the mouthpiece must be in use in the mouth of the user when the eye cups are positioned over the eyes. Further the rubber tubes of Winslow cannot possibly function as handles as they are far too flexible. The flexibility of the Winslow rubber tubes prevents a user from applying the pushing and pulling forces as required in the present application. In addition, the flexibility of the tubes prevents accurate control positioning of the eye cups relative to the individual's eye(s). The physical attributes of the rubber tubes in Winslow render them incapable of functioning in any way as handles of the Applicant's structure.

As set forth in the present application, the device of the instant application applies massage to the ciliary muscles (see for example, page 2, lines 27-31 and page 3, lines 1-2 of the present Description). Contrasting with Winslow, one cannot effectively use the mouthpiece and tubing of Winslow to force the eye cups in and out, as is possible with Applicant's structure. Thus, the structure of Winslow cannot provide the utility taught and desired with respect to the use of the myopia appliance of the present invention.

Due to the volume of air within the tubes and mouthpiece communicating with the interior of the eye cups in Winslow, even

if one were to block the opening in the mouthpiece, in the Winslow structure, when the eye cups are pushed against the eyes, there would be insufficient displacement of air along the tubes and the mouthpiece to establish a reduction in pressure to allow ambient pressures on the outer surface of the eye cups to secure the eye cups in place.

In view of the foregoing, the present invention provides at least two unique benefits over the structure of Winslow. The first is that placement of the eye cups is easily and accurately controlled as the handle extends generally directly from the eye cups such that the eye cups are moved directly with the movement of the handle even if the handle is formed of a rubber material. Secondly, as the handle extends directly from the eye cups, as the eye cups are positioned over the eyes and seated with respect thereto, sufficient air is displaced through the blowhole in the handle to create a reduced pressure with the eye cups. Thus, upon closing of the blowhole, the pressure within the eye cups and the handle is sufficiently reduced to cause ambient pressure to retain the eye cups in place.

An additional advantage of the present invention is that there is no possible contamination of the eyes due to bacteria

within the mouth of the person using the apparatus. With the apparatus of Winslow, the eyes are in direct open communication with the user's mouth and thus could be infected with bacteria coming from the user's mouth. Also, with the Winslow structure, the amount of reduced pressure established within the eye cups is directly dependent upon the suction placed on the mouthpiece during use. If a person accidental creates too great a suction within the eye cups, there could be damage done to the eyes. With Applicant's structure, the amount of vacuum to be achieved can not exceed an amount created by the displacement of air from within the eye cups as they are positioned on the eyes.

In view to the foregoing, even if one were to combine the teachings of Winslow with the blinder of Liu, the same differences would exist between the structure of Applicant's device with a blinder and Winslow with a blinder. Therefore, the combination would not teach nor make obvious the Myopia therapy appliance of the present invention.

In addition, Liu does not require his eye mask to be opaque. The blinder cover of the instant invention is claimed to be opaque.

In addition to this difference, the eye mask of Liu is sealed to a user's eye when in use (see for example page 3 at lines 7-14, of Liu). In the instant invention, the appliance is not designed to be tightly sealed. Liu on the other hand states that "air leak" is not desirable in his invention (see for example page 3 at lines 7-14, of Liu).

The claims of the present application have been amended to more clearly define the differences between the cited prior art and the present invention. An earnest effort has been made to place this application in condition for formal allowance. In view of the foregoing outline of the differences between the prior art and the presently claimed invention, reconsideration of the grounds of rejection under both 35 U.S.C. 102(b) and 103(a) is requested and allowance of claims 1-8 respectfully solicited.

Should the Examiner have any questions regarding the amendments submitted with this response or if the Examiner has any questions regarding the allowability of the claims over the cited art, it would be appreciated if the Examiner would contact the undersigned attorney of record at the telephone number provided below for purposes of facilitating prosecution of this application and to schedule a personal interview.

Any fees necessitated by the filing of this response may be charged to Deposit Account 04-1577.

Respectfully submitted,
DOWELL & DOWELL, P. C.

/Ralph A. Dowell, wms53,604/
Ralph A. Dowell, Reg. No.: 26,868
Date: June 25, 2010

DOWELL & DOWELL, P. C.
Suite 220, 103 Oronoco Street
Alexandria, VA 22314
Telephone: (703) 739-9888
Email: rdowell@dowellpc.com
Customer Number: 00293